



County of Los Angeles CHIEF EXECUTIVE OFFICE

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September 13, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

11 September 13, 2011

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

APPROVE AMENDMENT NO. 1 TO THE LEASE AND OPERATING AGREEMENT WITH THE CITY OF WEST HOLLYWOOD (THIRD DISTRICT) (3 VOTES)

SUBJECT

The Public Library is recommending that the Board of Supervisors approve Amendment No. 1 to Lease and Operating Agreement No. 74409 with the City of West Hollywood.

JOINT RECOMMENDATION WITH THE COUNTY LIBRARY THAT YOUR BOARD:

1. Approve and instruct the Mayor to sign Amendment No. 1 to Lease and Operating Agreement No. 74409 with the City of West Hollywood that will modify existing provisions related to library services levels, management of special collections and title to property, and add new provisions that will govern the use of available revenue and set aside funds for the operating cost of the new West Hollywood Library.
2. Delegate authority to the County Librarian, or its designee, to modify as needed during the forty year term, Lease and Operating Agreement No. 74409, by negotiating and executing Memorandum of Understanding or Amendments which shall be executed by the City Manager of the City of West Hollywood and the County Librarian, or their designees.

"To Enrich Lives Through Effective And Caring Service"

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Intra-County Correspondence Sent Electronically Only**

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The City of West Hollywood's (City) construction of the new 32,000-square foot and state-of-the art West Hollywood Library will have a dedication ceremony on October 1, 2011. Service improvements at the new library will include a large adult reading area, a homework center, designated special collection areas, a community meeting room to seat 100 people, a conference room and two additional group study rooms for adults, a teen center with dedicated study room, a spacious children's library with a storytelling area to seat 25 children, 50 public access computers, and an opening day collection of over 100,000 books and audiovisual items.

The County will continue to operate the City-owned West Hollywood Library pursuant to the provisions of the Lease and Operating Agreement approved by the Board of Supervisors in March 2003.

Your approval of the recommended action will establish an ongoing process for the City and the Public Library to meet in November of each year to determine the service levels based on anticipated available tax revenues and set aside funds for the operation of the new Library in the fiscal year beginning on the following July 1. As part of its usual and customary annual budgetary process, the West Hollywood City Council will take formal action to approve library service programs for the West Hollywood Library. For the period from October 1, 2011 through June 30, 2012, the service levels will be mutually determined by the Public Library and the City in September 2011.

Approval of the proposed amendment will delete the eight year-old staffing obligation established in the existing Lease and Operating Agreement since it no longer meets the operational needs of the new Library. In addition, the proposed amendment will also modify the existing provisions related to the management of special collections and title to property.

Implementation of Strategic Plan Goals

Approval of the recommended action is consistent with the County's Strategic Plan Goals in the areas of Organizational Effectiveness (1) and Community and Municipal Services (3) by investing in public infrastructure that will provide improved library services to the residents of the City.

FISCAL IMPACT/FINANCING

There is no fiscal impact.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On March 18, 2003, the Board of Supervisors approved a land sale agreement and Lease and Operating Agreement No. 74409 for the construction of a new West Hollywood Library.

On January 4, 2004, the Board of Supervisors approved the City's application for grant from the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000. The City was not successful in its application for Bond Act funding. However, the City identified alternative sources of funding and made the decision to proceed with the library construction project.

On April 1, 2008, the Board of Supervisors passed a motion by Supervisor Yaroslavsky, which instructed the CEO to negotiate an amendment to the Purchase and Sale agreement that would include the elimination of the condition that the City obtain the Bond Act grant funding, and instructed the Executive Office, Board of Supervisors to execute the amended agreement with the City.

On July 21, 2010, the County and the City executed a Letter of Agreement to use \$2.5 million in set aside funds towards the new West Hollywood Library project and provided prorated reimbursement to the County if the City withdraws from the County Library System before five years.

The attached Amendment No. 1 to Lease and Operating Agreement No. 74409 was approved as to form by County Counsel.

The Board of Supervisors is also requested to delegate authority to the County Librarian, or its designee, to modify Lease and Operating Agreement No. 74409, anytime during the 40-year term by Memorandum of Understanding or Amendment which shall be negotiated and executed by the City Manager of the City of West Hollywood and the County Librarian, or their designees.

IMPACT ON CURRENT SERVICES

There is no impact on current services.

ENVIRONMENTAL DOCUMENTATION

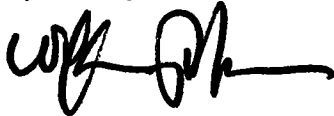
The recommended actions are not subject to the California Environmental Quality Act (CEQA) because they do not constitute a project under CEQA Guidelines according to Section 15378.

The Honorable Board of Supervisors
September 13, 2011
Page 4


CONCLUSION

It is requested that the Executive Officer, Board of Supervisors return four originals of the executed Amendment No. 1 to the Lease and Operating Agreement, two certified copies of the Minute Order and the adopted, stamped Board letter to the CEO, Real Estate Division at 222 South Hill Street, 4th Floor, Los Angeles, CA 90012 for further processing.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer



MARGARET DONNELLAN TODD
County Librarian

WTF:MDT:RLR
FH:YDR:CEM:bf/lb

Attachment

c: Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller

**AMENDMENT NO. 1 TO LEASE NO. 74409
LEASE AND OPERATING AGREEMENT BETWEEN
THE COUNTY OF LOS ANGELES AND THE CITY OF WEST HOLLYWOOD**

This Amendment No. 1 to Lease No. 74409 ("Amendment No. 1") is made and entered into this 13th day of September, 2011, by and between the City of West Hollywood, hereinafter referred to as ("City"), and the County of Los Angeles, a body corporate and politic, hereinafter referred to as ("County").

RECITALS

WHEREAS, the County and the City entered into that certain Lease and Operating Agreement known as Lease No. 74409 (the "Lease") dated March 18, 2003 for the City's lease of a new 32,000 square feet West Hollywood Library to the County and the operation of such library facility by the County without payment of rent to the City for a period of 40 years; and

WHEREAS, the County and the City agree that the eight year-old staffing obligation established in Exhibit E, Staffing Obligations for New Library, of the Lease will no longer meet the operational needs of the new West Hollywood Library, and therefore, should be deleted from the Lease; and

WHEREAS, the County and the City agree to meet on an annual basis to mutually determine the level of library service to be provided by the County based on available property tax and special tax revenues; and

WHEREAS, the County and the City both recognize that, over the past several years, the amount of such property tax and special tax revenues collected from City property owners has exceeded the operating costs of the existing West Hollywood Library, and the County has since placed these excess funds into a Set Aside Fund account for the improvement of facilities and services in the West Hollywood Library; and

WHEREAS, the County and the City executed a Letter of Agreement on July 21, 2010 to use \$2.5 million in Set Aside Funds towards the new West Hollywood Library project and provide prorated reimbursement to the County if the City withdraws from the County Free Library System before five years; and

WHEREAS, the County and the City agree that the June Mazer Collection and the Russian Collection will not be archived in the library on opening day;

WHEREAS, the County and City desire to modify said Lease and Operating Agreement in certain respects as set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby deemed a contractual part hereof, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged and the covenants and agreements herein contained, and intended to be legally bound, the County and City hereby covenant and agree as follows:

1. Section IV, Consideration, is amended to delete existing Sub-section A, Operation, and to replace it with new Sub-section A, as follows:

IV. CONSIDERATION

A. Operation

In consideration of the County's operation of the Library Facility pursuant to this Lease, the City shall perform the terms and conditions of this Lease.

The County Library and the City, for the duration of this Lease, shall meet in November of each year to determine the service levels based on anticipated available revenue for the operation of the Library Facility in the fiscal year beginning on the following July 1. As part of its usual and customary annual budgetary process, the City Council will take formal action to approve the library service program for fiscal year beginning the following July 1. If the City Council fails to approve such a service program, the County Library shall assume that the City issues and priorities remain unchanged from the most recent previously approved list provided by the City. The purpose of these meetings is to reach agreement on an expenditure program for the available revenues and library service levels for the next fiscal year; however, these meetings are advisory in nature and nothing in this section is intended to divest the County Library, or the County of Los Angeles, of any authority to control or use available revenues. This section shall not be construed as a limit to the frequency of meetings between the parties and the parties hereby express a willingness to meet as frequently as necessary to resolve issues related to available revenues or the library services. Notwithstanding the above, for the period from October 1, 2011 through June 30, 2012, the service levels will be mutually determined by the County Library and the City in September, 2011.

In the event that the costs of service for the library located within the City exceed the available property tax and special tax revenues, the County and City will mutually determine any service level reductions that may be necessary. However, the City may elect to fund any costs that exceed available revenue to either maintain current service levels or enhance service levels. The County Library and City shall mutually agree upon a schedule of invoicing for any financial contributions made by the City to maintain or enhance library services provided by the County to the City. If the County and the City fail to reach agreement on service levels in any given year the County will determine the service level required to operate the library within available revenues based on the preceding fiscal year's service program.

2. Section V, Construction and Use of Library Facility, is amended to delete the existing Sub-section B.3, Operate the Library Facility and replace it with a new Sub-section B.3 as follows:

V. CONSTRUCTION AND USE OF LIBRARY FACILITY

B. Library Services

3. Set Aside Funds and Set Aside Expenditures

- a. Currently, approximately 2.45% of the ad valorem property tax revenue generated from property located within the City is reserved for the support of the County Free Library System in accordance with the provisions of Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the California Revenue and Taxation Code.
- b. In addition, an annual special tax is imposed upon parcels located within the City to provide funding for County library services and facilities, as approved by the voters on June 3, 1997.
- c. For purposes of this Lease, "Set Aside Funds" shall refer to the yearly difference in the amount of property tax and special parcel tax received from City property owners and reserved for the County Library, and the cost of providing Library services at the West Hollywood Library.
- d. The County Library will place Set Aside Funds in a separate budgetary fund with the intent of providing more enhanced services and programs, or offsetting expenditures at the West Hollywood Library. The parties mutually acknowledge that the amount of Set Aside Funds varies from year to year and will continue to do so in the future.
- e. All Set Aside Funds currently in the separate budgetary fund, and those which will be placed in the separate budgetary fund during the pendency of this Lease, will be used solely to improve library facilities and services at the West Hollywood Library unless this Lease is unilaterally terminated by one of the parties before expiration, and then the use of these funds will be governed per Section I of this subsection.

- f. The parties agree that any furnishings and equipment and post opening day collection improvements purchased with Set Aside Funds for the library shall remain the property of the County Library.
 - g. The County agrees that the Opening Day Collection of library materials will be permanently assigned to the West Hollywood Library. The County further agrees that the Opening Day Collection materials will be transferred to the City upon termination of the lease.
 - h. Set Aside Funds may be used for both one-time improvements such as capital improvements and materials purchases, and for on-going service enhancements at the library (such as increased Library hours on Sunday or increased staffing levels or additional programs), and for additional needs as mutually agreed upon.
 - i. Upon unilateral termination of this Lease, any remaining Set Aside Funds will be used as follows:
 - (1) If County terminates the agreement, any remaining Set Aside Funds will be used solely to improve facilities, services, and programs at the West Hollywood Library.
 - (2) If City terminates the agreement, any remaining Set Aside Funds will remain in the control of the County Library to spend at its sole discretion, including at other County Library facilities.
3. Section XVI, Additional Rights and Obligations of City, is amended to delete existing Sub-section F, Management of Special Collections, and to replace it with new Sub-section F, as follows:

XVI. ADDITIONAL RIGHTS AND OBLIGATIONS OF CITY

F. Management of Special Collections

The City shall own, maintain, catalogue and provide access to its special collections, including but not limited to the West Hollywood Local History Collection. These collections shall be shelved in secure locations accessible only by authorized persons solely during library hours. County shall have no responsibility whatsoever for these collections.

4. Section XVIII, Title to Property, is amended to delete existing Section XVIII and replace it with new Section XVIII, as follows:

Title to the Improvements and Opening Day Collection of library materials shall remain in the City during the Term and shall remain in the City upon the expiration or termination of this Lease. Title to the equipment and subsequent materials collection provided and purchased by the County shall remain in the County during the Term and shall vest in the County upon the expiration or termination of this lease unless acquired by the City pursuant to Section VII.B above or otherwise agreed upon by the parties.

It is further agreed that telephone systems, network, and computer equipment provided and purchased by the City for the construction project shall remain the property of the City for the useful life of the equipment (estimated at 5 years for computers and network equipment and 10 years for telephone systems). Replacement systems will remain the property of the entity that purchases the replacement systems.

The County and the City may each dispose of any of their respective Library assets and may retain any proceeds derived therefrom.

Opening Day Collection List of titles is attached as Exhibit A to this amendment.

5. Section XIX, Miscellaneous, is amended to delete the existing subsection G, Modification: Memorandum of Understanding and replace it with new Subsection G as follows:

XIX. MISCELLANEOUS

G. Modification: Memoranda of Understanding or Amendment

No provision of this Lease may be amended or varied except by an agreement in writing between the parties. The parties acknowledge that modifications or refinements as mutually agreed upon may be necessary from time to time. Such modifications or refinements may be accomplished through Memorandum of Understanding or Amendment executed by the City Manager of City and the County Librarian of the County of Los Angeles or their designees. Such Memoranda of Understanding or Amendment to this Lease and Operating Agreement shall not require formal approval by the City Council of the City or the Board of Supervisors of the County.

6. Existing Exhibits, A, B, C, and D are deleted in their entirety. A new Exhibit A, Opening Day Collection Title List will be prepared by the County and submitted to the City following the execution of this amendment.

IN WITNESS WHEREOF, the City has executed this Amendment No. 1 or caused it to be duly executed on its behalf, and the County of Los Angeles, by order of its Board of Supervisors, has caused this Amendment No. 1 to be executed on its behalf by the Mayor of said Board and attested by the Clerk thereof the day, month, and year first written above.

City of West Hollywood

By: [Signature]
John J. Duran, Mayor

ATTEST

By: [Signature]
City Clerk

APPROVED AS TO FORM:

By: [Signature]
City Attorney

County of Los Angeles

By: [Signature]

ATTEST:
Sachi A. Hamai
Executive Officer-Clerk
of the Board of Supervisors

By: [Signature]
Deputy

APPROVED AS TO FORM

Andrea Sheridan Ordin
County Counsel

By: [Signature]
Lawrence L. Hafetz
Principal Deputy County Counsel

CHAIR, PRO TEM, BOARD OF SUPERVISORS



I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By: [Signature]
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

11

SEP 13 2011

[Signature]
SACHI A. HAMAI
EXECUTIVE OFFICER

74409 Supplement No. 1

EXHIBIT "A"

Opening Day Collection Title List

To be supplied by County